

LPCF QUARTERLY

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Louisiana Patient's Compensation Fund, P.O. Box 3718, Baton Rouge, LA 70821
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\$100 Million Dollar Claims Budget, the Norm?

By Ken Schnauder, PCF Claims Manager

Over the past decade claim payments by the Patient's Compensation Fund have increased 56% or an average of 5.6% per year, which seems very reasonable on the surface. One must remember there is a statutorily imposed CAP on general damages wherein the exposure to the PCF is limited to \$400,000 for any given claim. It must also be pointed out the PCF is a State agency with an annual budget limiting expenditures. The majority of the time payments cease at the end of the fiscal year due to the budget having been expended. Without these two huge constraints, claim payments would have easily doubled and possibly tripled over the same decade. Even with these constraints the PCF will have expended its

Inside This Issue

\$100 Million Dollar Claims Budget	1
From the Director	3
Health Care Provider Questions	3
Legislative Changes	4
Medical Review Panel News	5
What's on Your Mind?	6

\$97,000,000 budget (increased from \$80,000,000) in claim payments for the fiscal year ending June 30, 2006.

The PCF is obligated to pay "future medical" (medical costs incurred from time of malpractice forward) costs for those claimants who require on going medical care and treatment for injury or illness associated with the malpractice. These expenditures do not fall within the parameters of the CAP and are therefore unlimited. Future

medicals are paid for the life of the claimant and usually have no dollar limitation. Judicial interest and court costs also fall outside of the CAP. One may ask how much higher these three items could possibly drive the cost of claims. For the 30 years prior to 2006 the PCF had not issued payment of a single settlement or judgment in excess of \$2,000,000; however, in just the past six months alone there have been four such claims. The driving factors for the increase in payments are medical costs

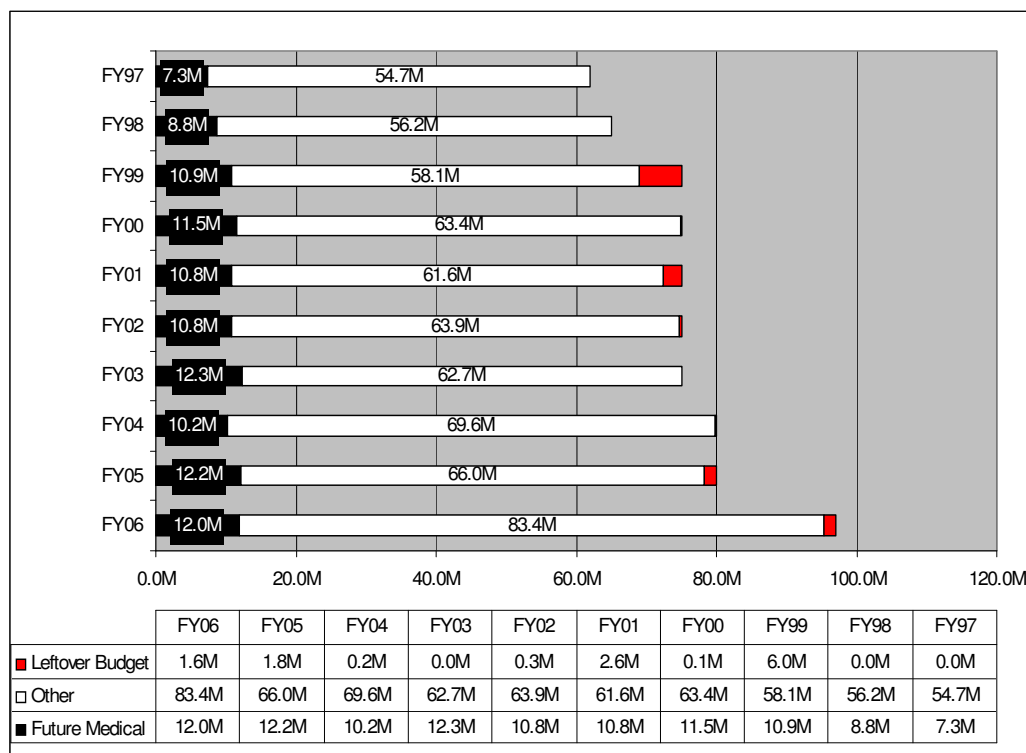


Chart 1. PCF claim payments over the last decade.

and judicial interest. Judicial interest is the amount of interest charged against a judgment for each year since suit was filed and varies by year. In 2006 judicial interest is 8%; a very significant factor on a multi-million dollar judgment.

The district courts also play a significant role in the rise in claim payments. Judgments in all areas of the state have risen quite noticeably over the last few years and the appellate courts seem reluctant to reduce excessively large awards to below the CAP. Judgment values of some claims seem to have increased significantly in just the past few years. Claims with judgment values of \$200,000 only 3 or 4

years ago may now have judgments awarded at \$400,000 today.

All of these factors – medical costs, judicial interest and judgment awards – will continue to increase, making it clear claim payments will continue to rise as well, thus having the same effect on surcharges paid by the healthcare providers that fund the PCF. The PCF, although a state agency, is wholly funded by the health care providers to whom it provides medical malpractice coverage. As expenditures increase so too will the need for funds; therefore, collection of surcharges from the enrolled providers must increase as well.

Panel Post It!

- **Credentiaing Form:** The PCF is developing a form for credentialing purposes that will be accessible online as well as downloadable to process and return via fax or email. The form will be used by this office for verification and release of information on health care providers. It will provide only information that is available and allowed to be released in accordance with the statutes.
- **To Avoid “Suspense” notice when filing a new request:** Make sure to include ALL information required by the ACT...
 1. Name of patient
 2. Name(s) of claimant(s)
 3. Name(s) of defendant health care providers (first and last name)
 4. Date(s) of alleged malpractice (month and year)
 5. Brief description of alleged malpractice
 6. Brief description of alleged injuries



Failure to provide all mandated information will delay the processing of the request until such time as the missing information is received.

From the Director

By Lorraine LeBlanc, PCF Executive Director



Lorraine LeBlanc,
Executive Director

Hurricane Katrina and Hurricane Rita brought a huge amount of destruction and upheaval in the medical community. The PCF attempted to work with health care providers and extend the time they had to pay for renewal of their PCF coverage. However, we know it continues to be a difficult time for health care providers, not just from a professional standpoint, but also a personal one. And while we have seen some hospital closures and nursing home closures, most of these will reopen in the future. It is our hope that the health care community bounces back even stronger.

Fortunately, we have not seen a huge decline in our physician enrollments. In fact, total enrollments for the fiscal year ending in June 2005 were 16,140 and for the fiscal year ending in June 2006 they were 16,233. While the enrollment receipts did increase from \$140,876,000 in fiscal year 2004-05 to \$141,287,000 in fiscal year 2005-06, this is below the expected increase due to the overall rate increase of 7.4% that was effective 1/1/06.

The annual actuary study is being finalized by the actuary

retained by the Board and it will be reviewed and discussed by the Board members during the August board meeting. However, preliminary results indicate a rate increase is necessary. Any rate increase must be approved by the Department of Insurance and would go into effect January 1, 2007. While we realize no one likes a rate increase, it is imperative that the Patient's Compensation Fund be kept financially sound and strong. This is important as insurance companies and re-insurers look at the integrity of the PCF when deciding whether or not to offer insurance to the health care providers in this state. The date and time of the board meetings is posted on the PCF web site. Rate change recommendations and other information will also be posted on the web site as this matter progresses. So, please periodically check the PCF web site at www.lapcf.louisiana.gov for further details.

Health Care Provider Questions

By Susan Gremillion, Surcharge

Questions being currently asked by Healthcare Providers

How are address changes handled?: If you have recently relocated your office, please drop us a note, as well as your primary carrier, advising of the new address. Please note that we need to be aware of temporary changes as well.

I am changing primary carriers, what do I do?: If changing your primary carrier, you must first make sure that they are licensed to do business in Louisiana by checking with the Department of Insurance at the following links:

1. http://www.lds.state.la.us/search_forms/company/ or,
2. http://www.lds.state.la.us/search_forms/white_list.cfm

We know that this can be a confusing time when trying to determine what company to choose and what type of coverage to obtain. Just remember you can call us at anytime.

If I have questions, who should I contact: For those with primary coverage, you can contact

anyone in the surcharge department. The numbers are listed below. For those healthcare providers that are self insured, you have a specific contact person

based on the month your coverage renews. See list below.

Name	Email Address	Phone Number
Susan Gremillion, Mgr.	Susan.gremillion@la.gov	(225) 342-8788
Lillie Rome January, May, August & October	Lillie.rome@la.gov	(225) 342-8789
Lauren Dixon February, June, September & December	Lauren.dixon@la.gov	(225) 342-5323
Lisa Davis March, April, July & November	Lisa.davis@la.gov	(225) 342-8795

Legislative Changes

In the 2006 Regular Session of the Louisiana Legislature, there were only two bills that will have a direct impact on the PCF.

Act 694: This bill expanded the definitions of "Patient", "Malpractice", and Health Care" to include as patients, donors of human blood or blood components and to include the injuries allegedly caused during the procurement of the blood as malpractice, and health care now includes acts during or relating to or in connection with the procurement of blood.

This change is not expected to impact the PCF as we have always considered donors as patients and collected surcharges based on the number of donations. The legislation was necessary due to a recent Supreme Court decision stating donors were not patients.

Act 323: This bill created an optional expedited

medical review panel process. In order for this to take place all parties must agree to its use and notice of the agreement must be made to the PCF and the attorney chairman within 60 days of the appointment of the attorney chairman. The provisions of the expedited panel process limit the time in which an opinion must be rendered to 12 months from the appointment of the attorney chairman, with no extensions allowed. The plaintiff must provide to the defendant a list of all health care providers who provided treatment 3 years prior to the incident, as well as execute a medical release. No depositions or interrogatories are allowed. An opinion rendered is not admissible in court and the panel members cannot be called as witnesses. The intent of the bill was to speed up the panel process and reduce some of the costs involved in the process; however, it also has limitations which may not be favorable to all parties.

Medical Review Panel News

In 2003, legislation was passed to assess a filing fee of \$100 for each named defendant that was qualified. The change became effective 8/15/03. It was hoped that a filing fee would encourage those filing claims to seriously review the matter before naming a health care provider and not simply name all health care providers involved in the treatment of the patient. It was also an attempt to offset the escalating costs of processing panel requests, a burden solely borne by the health care providers paying into the Fund until the filing fee was incorporated into the Act. Below is a chart showing the number of medical review panels filed each year

for the last 10 fiscal (July –June) years. As you can see, the number of panel requests has decreased this fiscal year, namely due to the hurricanes causing office closures and interrupting the mail service for a large area of the state. Otherwise they probably would have increased from the prior year. However, we have also seen fewer requests in which more than five providers are named. The spike in 2001 was due to a very large number of claims filed related to the drug Rezulin. We are anticipating a large number of hurricane related claims to be filed in August and September 2006.

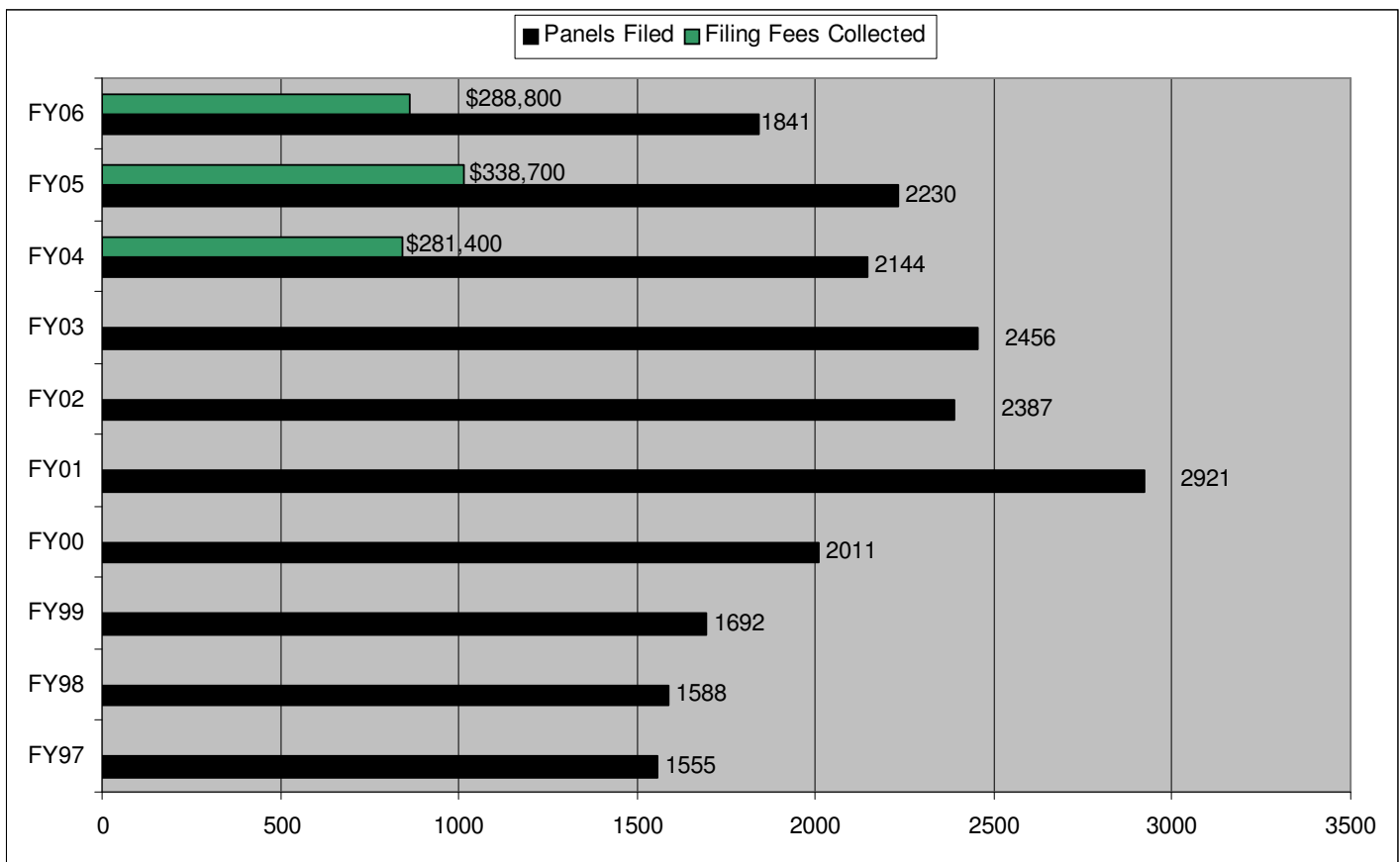


Chart 2. The number of medical review panels filed each year for the last 10 years.

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We're on the Web!

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www.lapcf.louisiana.gov

What's on Your Mind?

Is there a "gray" area about the LPCF you would like more information about? Is there a particular topic you'd like addressed? Please visit the LPCF website Feedback Forum

<http://www.lapcf.louisiana.gov/feedback.htm>

LPCF welcomes your input about future articles and issues you'd like to see in LPCF Quarterly.

LPCF Quarterly is OUR publication, developed and provided with the goal of increasing awareness, offering assistance and providing knowledge to YOU.

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<http://www.lapcf.louisiana.gov/Newsletter.htm> or by

simply [sending an email](mailto:Dechelle.Simon@La.gov) to Dechelle Simon

(Dechelle.Simon@La.gov) asking to be placed on the list.

Please include your full name as well as your company/agency.